

other credit requirements. Edgemont also requests clarification of whether toll caps are subject to the disconnection procedures contained in Rule 4901:1-5-19(K), O.A.C.

- (69) OCC requests rehearing of Rule 4901:1-5-14(A)(8), O.A.C. OCC posits that, if a carrier utilizes toll caps, the deposit amount should be reduced because the carrier through the use of toll caps has additional protection. As stated in response to the industry's request for greater flexibility in determining an applicant's creditworthiness, the Commission believes that allowing a combination of deposit and toll caps in some instances may allow a customer to establish service. Some customers, however, may object to the implementation of a toll cap and prefer to pay a deposit and, for these customers, the Commission found no reason to unilaterally reduce the amount of the deposit.
- (70) When enacting toll caps, the Commission had in mind an additional method by which an applicant for service could establish creditworthiness, as well as providing toll carriers with a certain measure of security. The procedures for implementing toll caps will be established in each carrier's toll cap tariff which will not be governed by the disconnection procedures contained in Rule 4901:1-5-19(K), O.A.C. As to Edgemont's argument that the imposition of toll caps should be subject to a public hearing, the Commission would again note that a carrier must file an application for Commission approval of a proposed toll cap tariff. These applications will not be subject to the automatic approval process and shall be served on OCC and Edgemont. As suggested by MCI in its memorandum contra, interested persons may file comments in these proceedings.

Rule 4901:1-5-15, O.A.C.

- (71) Rule 4901:1-5-15, O.A.C., provides that LECs or IXC's that require a deposit as a condition of providing service must permit an applicant the option of obtaining a third party guarantor in lieu of a deposit and inform the applicant of the available options. AT&T and MCI object to Rule 4901:1-5-15, O.A.C. AT&T states the Commission should not mandate that carriers offer guarantors as a method of establishing credit and argues the use of guarantors gives the incumbent LEC a competitive advantage. MCI restates its belief that the companies should have greater flexibility in the establishment of creditworthiness. MCI also requests clarification of

what procedures are to be followed if the guarantor terminates his agreement before the customer has become credit-worthy in his own right.

- (72) Although MCI and AT&T do not believe the Commission should mandate that carriers offer guarantors as a method of establishing credit, the Commission would point out that, since 1971, telephone companies were required to offer guarantors as a method for residential customers to establish credit. As OCC points out in its memorandum contra, guarantors enable persons to obtain telephone service. AT&T requests rehearing of Rule 4901:1-5-15, O.A.C., as AT&T believes that the provision favors incumbent LECs and is a barrier to competition for NECs. The Commission specifically recognized the issue raised by AT&T in its comments and eliminated from the staff's proposed rule that the guarantor be served by the same LEC or IXC that serves the applicant. Neither MCI or AT&T raise any new arguments as to Rule 4901:1-5-15, O.A.C. The Commission reaffirms its belief that residential service guarantors are essential to achieving universal service.
- (73) MCI requests clarification of the procedures to follow when a guarantor terminates the agreement before a customer has become creditworthy in the customer's own right. The Commission would direct MCI, and other service providers, to follow the procedures outlined in Rule 4901:1-5-14, O.A.C., to reevaluate a customer's creditworthiness, including the other credit mechanisms developed by the LEC or IXC as approved by the Commission.

Rule 4901:1-5-16, O.A.C.

- (74) The MTSS adopted June 26, 1997 required in Rule 4901:1-5-16(A)(8) and (E), O.A.C., that each subscriber's bill include a statement indicating the result for nonpayment of particular aspects of the customer's bill. Specifically, Rule 4901:1-5-16(A)(8), O.A.C., directs that, following any charges for non-regulated services or products, there must be a statement that nonpayment of such charges may result in the disconnection or restriction of such services and such delinquencies may be subject to collection actions. Rule 4901:1-5-16(E), O.A.C., directs that immediately following the section of the bill which includes charges for toll service shall be a statement that nonpayment of such charges may result in the disconnection of toll service and may be subject to collection actions.

- (75) AT&T, GTE, MCI and OTIA request rehearing of this provision of Rule 4901:1-5-16(A)(8), O.A.C. OTIA contends this requirement is unwise, inappropriate, unlawful and unjustified by consumer protection considerations. AT&T and GTE object to including the statement on bills and assert it is unreasonable, serves no useful purpose and does not aid in a subscriber's understanding of the bill. MCI also believes that the statement will create customer confusion. OTIA and GTE make the same arguments with regards to Rule 4901:1-5-16(E), O.A.C.
- (76) The Commission denies all applications for rehearing as to the above required statements in Rules 4901:1-5-16(A)(8) and (E), O.A.C. OTIA, AT&T, GTE and MCI all express the belief that these rules serve no useful purpose. The Commission disagrees with all of the above assertions. In its memorandum contra, OCC agrees that the Commission made the correct decision by requiring customer notice of the impact of nonpayment of nonregulated and toll charges to be stated on the subscriber's bill. The Commission finds that this neutral statement is especially critical as companies become one-stop providers of various nonregulated services in addition to telecommunication services and their customers receive bills for nonregulated and regulated toll and local service on the same bill as nonregulated nontelecommunication services, such as cable television charges. However, the Commission also acknowledges the arguments given by the Telecommunications Resellers Association that these requirements may be burdensome to small resellers which serve customers in more than one state. However, the Commission strongly believes that it is imperative that Ohio's consumers have such information on the bill. The educational benefit bestowed upon Ohio consumers as a result of including these statements on customers' bills clearly outweighs the LEC's burden to include such information as many additional nonregulated services may appear on customers' bills in the future. The Commission also notes that the statement required by this rule relative to nonregulated services is consistent with a statement required in rules promulgated by the FCC as to pay-per-call services which already appears on subscribers' bills. Pay-per-call services are nonregulated and, as such, nonpayment of related charges cannot affect a subscriber's regulated service.⁶

⁶ Section 64.1510(a)(2) of Title 47 of the Code of Federal Regulations requires, in part, that any billing to a telephone subscriber that includes charges for any interstate pay-per-call service include a statement

- (77) Ashtabula, as supported by OCC, expresses some disappointment that the Commission did not require LECs, pursuant to Rule 4901:1-5-16(B), O.A.C., to provide measured-rate billing detail to a subscriber free of charge. Ashtabula believes that the LECs' billing systems are incapable of accurately billing customers in light of all the new types of services offered. Ashtabula contends that, while a dollar or two dollar overcharge may not be significant to an individual customer, it amounts to "thousands of dollars in overcharges monthly" for the company. OCC posits that detailed bills for measured-rate service should be available free upon request, as it is fundamentally unfair for a customer to have to pay for information necessary to dispute charges. Likewise, Minnick requests reconsideration of this rule. Minnick states that customers should be given itemized bills free of charge upon request, as itemized bills are necessary to check for billing errors.
- (78) The Commission understands the issues raised by Ashtabula and Minnick but believes the rule adequately addresses these concerns. The detailed billing information will be provided upon request free of charge once every 12 months. However, the Commission emphasizes that it was not the Commission's intention, nor does the rule imply, that a customer must incur the cost of requesting billing detail in all cases. The Commission clarifies that in instances where a customer has a bona fide billing dispute the LEC or IXC shall provide billing detail to the subscriber free of charge.

Rule 4901:1-5-17, O.A.C.

- (79) MCI requests clarification of Rule 4901:1-5-17, O.A.C., Account Servicing Charges. MCI asks whether or not a specific amount for account servicing charges must be in the tariff or whether it is sufficient just to state that there will be such charges.
- (80) As MCI admits in its application for rehearing, this provision of the MTSS is not new. Therefore, as MCI is aware, every regulated charge assessed by a company should be in the tariff unless it is an item that has been detariffed. The Commission has always required that the amount of such charges be stated in the tariff. The Commission is concerned that, if companies

that neither local nor long distance services can be disconnected for non-payment, although an information provider may employ private entities to seek to collect such charges.

are permitted to merely state that such charges exist, as MCI proposes, rather than specifically stating the amount for a particular service, the door is left open for the company to unreasonably discriminate among customers for similar services.

Rule 4901:1-5-18, O.A.C.

- (81) The industry filed several applications for rehearing as to Rule 4901:1-5-18, O.A.C., Subscriber Billing Adjustments for Local Exchange Service. OTIA vigorously objects to Rule 4901:1-5-18, O.A.C. OTIA posits, and Ameritech agrees, that Rule 4901:1-5-18, O.A.C., is unlawful, unreasonable and an abuse of the Commission's discretion. OTIA interprets this rule to require LECs to give credits for failing to provide "perfect service". OTIA cites Section 4905.231, Revised Code, as authorizing the Commission to develop and enforce only minimum standards, and reasons that requiring perfect service is not such a minimum.⁷
- (82) The Commission disagrees with OTIA's contention that either Rule 4901:1-5-18 or 4901:1-5-24, O.A.C., requires perfect service. Rules 4901:1-5-18 and 4901:1-5-24, O.A.C., require no such perfection. Both rules, rather than demanding perfection, set reasonable minimum standards that are consistent with customer expectations pursuant to the Commission's obligations in Section 4905.231, Revised Code, to provide reasonable "minimum standards for the furnishing of adequate telephone service." The Commission notes that similar requirements were included in the previous MTSS. For example, old Rule 4901:1-5-20(E), O.A.C., required that "[a]ll repair commitments shall be kept unless precluded by unusual repair requirements or other unavoidable factors. When a repair commitment cannot be met, the company shall make reasonable efforts to, in a timely manner, notify the affected subscriber." As to the legal issue raised by OTIA on rehearing, no new arguments have been raised that have not previously been considered by the Commission. Furthermore, the Commission notes that the billing adjustments meet OTIA's own stated criteria that such adjustments be "an offset of charges associated with a service that was not performed or that was performed in less than a satisfactory way." Requiring billing adjustments for excessive installation and

⁷ Section 4905.231, Revised Code, states: The public utilities commission may make such investigations as it deems necessary and ascertain and prescribe reasonable standards of telephone service. Such standards shall be minimum requirements for the furnishing of adequate telephone service.

repair times, missed appointments and commitments and directory omissions certainly constitute such offsets for service either not performed or performed below standard. Accordingly, all request for rehearing as to this aspect of the MTSS are denied.

Rule 4901:1-5-18(A), O.A.C.

- (83) Ameritech recommends that Rule 4901:1-5-18(A), O.A.C., be amended to exclude: (1) all acts not preventable by reasonable care, skill, or foresight; (2) "malicious or unfortunate" acts caused by a party other than the subscriber; and (3) customer-requested later access time. The Commission finds that no additional exceptions should be allowed for this rule. The subscriber should not be denied a credit for a delayed repair simply because, as Ameritech asserts, the service interruption is unpreventable or caused by a party other than a subscriber. Although the LEC cannot be faulted for such occurrences, such occurrences do not obviate the LEC's responsibility for restoring service in a timely fashion. The Commission believes it would be discriminatory to deny billing adjustments to those customers who have suffered excessive out-of-service repair times solely because the service interruption happened to be due to uncontrollable factors or third-party negligence. As we stated in the order, those customers who are actually affected by a performance breach will be provided direct relief. We believe that the additional exceptions requested by Ameritech may result in not only customer confusion but claims of discrimination. We find that the adopted rules provide for sufficient exceptions and flexibility to address unusual circumstances. Accordingly, Ameritech's request for rehearing of Rule 4901:1-5-18(A), O.A.C., is denied.

Rule 4901:1-5-18(C), O.A.C.

- (84) Ameritech also recommends that the exception in Rule 4901:1-5-18(C)(1), O.A.C., for "special equipment or service" should be clarified to include, for example, multiple lines, Centrex, integrated systems digital network (ISDN) and high-capacity data services. Ameritech argues that the installation credit should apply only in the case of basic services, such as for a single access line.
- (85) The Commission disagrees with Ameritech's contention that Rule 4901:1-5-18(C)(1), O.A.C., should be clarified by specifying particular excluded services. Whether specific services qualify

for such an exception depends not on the type of service but on whether a particular installation of such services requires so much time as to render compliance with the five-day installation standard unreasonable. Rather than specifically excluding such services as multi-line service, Centrex, ISDN and high-capacity data services, the Commission believes the burden should be left on the LECs to justify and document in their records any exclusion of such services on a case-by-case basis. The Commission notes that the predecessor rule, Rule 4901:1-5-22(C)(1)(a), O.A.C., included an identical exception without clarification, and the Commission is not aware of any problems with interpretation of the previously effective provision.

- (86) OTIA contends that Rule 4901:1-5-18(C)(1), O.A.C., fails to account for the increased uncertainty associated with the resale of local service and argues that LECs should not be held responsible for the forecasting of other carriers reselling their services. OTIA recommends another exception which excuses credits where "new service, not reasonably foreseen by the LEC, is requested." The Commission sees no need for an exception to this rule for "new service not reasonably foreseen by the LEC." Rule 4901:1-5-18(C)(2), O.A.C., already excludes installations in undeveloped areas where no facilities exist. The Commission does not believe resellers represent an unreasonable challenge to LEC forecasting efforts.

Reseller end-users add little or no incremental demand on ILEC facilities or work force, since these end-users would be served by the same ILEC service facilities and installation work force regardless of whether a reseller is involved. New end-users moving into an ILEC's service area would represent the same incremental demand that would face the ILEC if there were no reseller. Switching existing end-users from ILEC to reseller would not even require a field trip, since the switch can be made remotely. Therefore, resellers represent little if any incremental burden to ILEC forecasting efforts and there is no need for an additional exception for reseller impact on ILEC forecasting efforts.

- (87) Edgemont requests rehearing as to Rule 4901:1-5-18(C) and (D), O.A.C. Edgemont believes that these rules do not adequately address the consequences of the waiver of installation charges and missed appointments for Telephone Service Assistance (TSA), Service Connection Assistance (SCA) and Universal Service Assistance (USA) customers who do not pay these

charges. According to Edgemont, the MTSS, therefore, may encourage companies to redline these customers. Edgemont encourages the Commission to take a proactive stance in this matter and not just fully investigate any complaints of discrimination.

- (88) The Commission understands Edgemont's concerns about possible LEC discrimination against TSA, SCA and USA customers regarding installation delays and missed installation appointments. Although the Commission believes it is an inappropriate remedy to waive installation charges for these customers beyond the extent that these charges are not already waived for customers on assistance plans, the Commission reiterates that it will thoroughly investigate any complaints of discrimination by customers on assistance plans. However, the Commission emphasizes that billing adjustment for out-of-service conditions, pursuant to Rule 4901:1-5-18(B), O.A.C., and missed repair commitments pursuant to Rule 4901:1-5-18(D)(2), O.A.C., in addition to the other non-installation related billing adjustments are applicable to subscribers on TSA, SCA and USA assistance plans.

Rule 4901:1-5-18(D), O.A.C.

- (89) OCC supports the Commission's decision adopting customer billing adjustments, although OCC disagrees with requiring the customer to request a credit when the company misses an appointment, according to Rule 4901:1-5-18(D), O.A.C. OCC argues that requiring the customer to request the credit for missed appointments unfairly places the burden on the customer.
- (90) The Commission disagrees that requiring a customer to request the credit for missed appointments unfairly places a burden on the customer. By requiring the customer to request a credit from the LEC for the LEC's failure to keep an appointment recognizes that in some instances a subscriber would prefer to have services repaired or installed, even if it is outside of the appointment period, rather than be required to reschedule the appointment with the LEC. However, the Commission emphasizes that installing or repairing a customer's service outside of the appointment period does not obviate the LEC's obligation to adjust the customer's bill if the customer requests a billing adjustment. Furthermore, customers are required to be informed when they first order

service or repair of their right to a credit in the event the LEC does not keep the appointment or commitment.

- (91) OTIA interprets Rule 4901:1-5-18(D), O.A.C., as requiring LECs to issue customer credits for failing to keep appointments "100 percent of the time" and proclaims such is unreasonable and unlawful. Further, OTIA objects to the applicability of this rule to multi-line commercial accounts, since "they have more options for installation and repair, and can be expected to speak for themselves if issues arise." OTIA believes the LEC's exposure under this requirement is unlawful, unreasonable and unacceptable. OTIA, therefore, recommends that Rule 4901:1-5-18(D), O.A.C., should apply only to residential and single-line business customers.
- (92) OTIA's claims that the MTSS requires perfect service as previously been addressed and rejected by the Commission. See discussion in the order of applications for rehearing of Rule 4901:1-5-18, O.A.C. Furthermore, the Commission disagrees with OTIA's contention that the missed appointment credits should apply only to residential and single-line business customers. The Commission believes that making such a restriction would imply that it is acceptable to miss appointments with large business customers. Although it is likely that business managers can easily arrange access for the LEC's technician, missing an installation or repair appointment may disrupt business operations and have financial consequences. Furthermore, the credit is issued only upon request; businesses unaffected by a missed appointment are unlikely to request the credit.
- (93) Ameritech recommends that Rule 4901:1-5-18(D), O.A.C., apply only to on-premise appointments, where access is required. Ameritech argues that the credit should only apply where the customer is inconvenienced by waiting at the premise to allow access by the LEC's technician. Further, Ameritech recommends that Rule 4901:1-5-18(D)(2), O.A.C., should only apply in the case of missed repair appointments for regulated services, since Rule 4901:1-5-24(B)(2), O.A.C., for trouble report rate applies only in the case of regulated service. OTIA states this requirement creates confusion by applying to inside repair appointments as well as outside repair commitments. OTIA points out that, to the extent the rule applies to inside-wire repairs, the Commission is without justification to require credits of any sort, since inside-wire has been deregulated. OTIA recommends the rule be revised

to apply only to "regulated repair appointments or regulated repair commitments."

The Commission disagrees with Ameritech's contention that a credit should only apply to on-premise appointments where access is required. The Commission believes the rule should also apply to outside repair commitments. Repair commitments establish a customer's expectation of service which should be met unless the LEC provides the customer advance notice to the contrary.

The Commission also disagrees with OTIA's contention that there is any double application of credits for delayed out-of-service clearance and for missing a repair appointment. As OCC points out, each of these situations represents a separate failure on the part of the carrier, and a separate credit should apply to each.

- (94) The Commission disagrees with OTIA and Ameritech who argue that the credit for missed repair appointments should not apply to inside-wire repairs. The Commission also disagrees with OCC's contention in its memorandum contra that this credit would not apply if the customer has a network interface device (NID) and uses it to determine that the problem was in the inside wiring. This provision of the Case No. 86-927-TP-COI, *In the Matter of the Commission's Investigation into the Detariffing of the Installation and Maintenance of Simple and Complex Inside Wire*, issued September 29, 1994, affects whether a LEC can charge for a premise visit, but does not determine whether this rule should exclude missed repair appointments relating to inside-wire. Virtually all repair appointments are arranged so the LEC can access the premise to either make the inside-wire repair or diagnose whether inside-wire is involved. The Commission is aware that thousands of these on-premise appointments are being missed each year. The Commission estimates that over a million customers in Ohio still have no NID to diagnose inside-wire trouble, and therefore are dependent on the LEC to make such diagnosis. The Commission is also aware that some LECs do not know which of their customers have NIDs, making it difficult to know whether an on-premise visit is necessary. Given this situation, the Commission concludes there should be no exclusion of credits for missed inside-wire repair appointments. The Commission also notes that the previous MTSS required, in Rule 4901:1-5-20(E), O.A.C., that

all repair commitments be kept. This rule did not exclude commitments for inside-wire repairs.

- (95) AT&T objects to having to inform customers of their right to have a credit for missed appointments or installations pursuant to Rule 4901:1-5-18(D)(1) and (2), O.A.C. AT&T asserts that for NECs this would raise doubts in customers' minds about the ability of the NEC to provide quality service. Furthermore, AT&T argues this information is provided to customers in the synopsis of the customer bill of rights. Like AT&T, OTIA contends that this requirement invites fraud, is uncommonly used in verbal business arrangements and sacrifices good will for a small amount of education.
- (96) Despite AT&T's and OTIA's objections to being required to inform customers of the availability of the missed appointment credits, as well as OCC's objections about customers having to request such credits, the Commission finds these requirements to be appropriate. The Commission believes these credits should be dependent upon customer request because some barely missed appointments, those only slightly beyond the afternoon or morning window, may not cause the customer a real problem. However, customers need to be aware of this option before they can exercise their right to receive a credit. Therefore, it is necessary for LECs to notify customers of the missed appointment credit when customers schedule such appointments. Notification does not invite fraudulent customer claims of missed appointments, as argued by Ameritech. The LECs can document their field visits by whatever means necessary, including the use of door hangers.

Rule 4901:1-5-18(E), O.A.C.

- (97) OTIA contends that Rule 4901:1-5-18(E), O.A.C., creates an unlawful, unreasonable and inappropriate penalty. OTIA adds that third-party directory publishing agreements may not permit indemnity for omissions. Finally, OTIA maintains that Rule 4901:1-5-12, O.A.C., already provides a remedy to customers when their numbers are incorrectly listed in the directory.
- (98) First, the Commission disagrees with OTIA's contention that the directory omission credit constitutes a penalty rather than a credit for service that is not provided. The Commission is of the opinion, and OCC agrees as stated in its memorandum

contra, that a directory listing is part of local service; a subscriber can not have a directory listing without local service and every subscriber to local service is entitled to a directory listing. The Commission believes a three-month service credit is reasonable considering that the effect of a directory omission extends for a full 12 months. The Commission also notes that Ameritech has a tariff limiting its directory omissions liability to a 12-month service credit, which is four times that required by the MTSS. The Commission does not believe that granting the directory omissions credit creates a hardship on the LECs. For example, Ameritech, the state's largest LEC, reported that during the first nine months of 1996, it issued only 128 adjustments (out of nearly four million access lines) for directory omissions pursuant to a stipulation in Case No. 95-711-TP-COI, *In the Matter of the Commission's Investigation Into Ameritech Ohio's Compliance With Several Subsections of Chapter 4901:1-5, Ohio Administrative Code, Concerning the Minimum Local Exchange Company Telephone Service Standards*. The Commission also disagrees with OTIA's contention that the directory omissions credit is inappropriate because some third-party directory publishing agreements do not permit indemnity for omissions. LECs should be held responsible for ensuring that their subscribers are properly listed regardless of their dependence on third-party directory publishers. If the directory industry is truly competitive, then LECs should be able to find a publisher that reimburses the LEC for directory omissions or the LEC should consider such factors in their cost of doing business with a particular publisher. Finally, as to OTIA assertions that Rule 4901:1-5-12, O.A.C., already provides a remedy to customers whose directory listing has been omitted, OTIA is incorrect. Rule 4901:1-5-12, O.A.C., applies to incorrect directory listings, not directory omissions.

The Commission wishes to clarify that the amount of the adjustment due a customer whose listing in the directory has been omitted is to be equivalent to three months of the subscriber's basic local service charges, specifically excluding optional features such as Caller ID, call forwarding, call waiting, as well as local usage charges. This is in contrast to Rule 4901:1-5-18(B), O.A.C., where credit amounts are based on any local services rendered inoperative.

Rule 4901:1-5-18(F), O.A.C.

- (99) Ameritech contends that Rule 4901:1-5-18(F), O.A.C., should be clarified to apply only to billing for services regulated by the Commission, arguing that the proper scope of the rules does not extend to nonregulated products and services. The Commission disagrees with Ameritech's contention that this rule needs clarification to restrict its application to regulated services. The Commission believes such clarification is not necessary since Rule 4901:1-5-01(A), O.A.C., already restricts the application of all the MTSS rules to "regulated intrastate telecommunications service." Accordingly, the provisions of Rule 4901:1-5-18(F), O.A.C., regarding the handling of overcharges and undercharges apply only to charges for regulated services.
- (100) Rule 4901:1-5-18(F)(2), O.A.C., requires a LEC that has overcharged a subscriber to reimburse the subscriber with accrued interest, pursuant to Rule 4901:1-17-05(C), O.A.C. OTIA contends that requiring interest on overcharges, regardless of whether the customer has paid them, greatly exceeds commercial practice. OTIA recommends that the MTSS require the appropriate credit, without interest, of those overpayments that are actually received. OTIA also requests rehearing of Rule 4901:1-5-18(F)(2), O.A.C., as it gives customers qualifying for a service credit the option of receiving either a direct payment or a credit. OTIA argues that such an option would greatly increase the number of direct payments, which are more expensive to issue. OTIA also argues that the cash-in-hand nature of a direct payment gives it more of a penal character and makes it more like a fine than an adjustment. OTIA, therefore, recommends that LECs be allowed to use its discretion in determining whether the credit should be a direct payment. Likewise, MCI states that the method of making arrangements for the prompt refund of overcharges and payment for undercharges pursuant to Rule 4901:1-5-18(F)(2), O.A.C., should be left to the company's discretion on a case-by-case basis.
- (101) The Commission disagrees with OTIA's contention that Rule 4901:1-5-18(F)(2), O.A.C., should not require interest on overpayments. The Commission believes it is only fair to customers for LECs to apply interest to amounts collected and held in error. The Commission also believes this requirement is consistent with other statutes and regulations requiring the application of interest to utility overcharges.

Furthermore, the Commission disagrees with OTIA's contention that this rule requires interest on overcharges which were never paid by the customer. This claim is inconsistent with the usual meaning of interest, which is a rate to be charged for the use of funds. It is meaningless to even apply the concept of interest when no funds have been collected. The Commission, therefore, believes the rule is clear on when interest should be applied.

Rule 4901:1-5-18(G), O.A.C.

- (102) The Commission disagrees with OTIA's argument that Rule 4901:1-5-18(G), O.A.C., should not allow a customer the option of receiving either a direct payment or credit when a billing adjustment is made in the customer's favor and the customer's accounts is current. It is the Commission's understanding that even in the competitive marketplace a customer has the right to request a direct payment when a billing adjustment is made. The Commission emphasizes it would not be appropriate for the LEC to tie the direct payment to a promotional offering for other services. The Commission believes it would be improper for a LEC to hold such customer funds contrary to a request for payment when a billing adjustment is made and the customer's local service account is current. This rule does not require LECs to explicitly present this option to the customer, but only to comply with requests for direct payment if the customer's local service account is current. The Commission also disagrees with OTIA's argument that a cash payment would constitute a fine. The Commission's only concern here is that the customer have access to funds which are properly due the customer.

Finally, the Commission notes that Rule 4901:1-5-18(A), O.A.C., requires that each LEC shall justify and document in its records each instance where it applies any of the exceptions listed in this section. Consistent with this provision, when a LEC invokes an exception under any paragraph of Rule 4901:1-5-18, O.A.C., due to an Act of God, military action, war, insurrection, riot or strike, and to the extent such exception is applied to 100 or more subscribers in a local calling area, the LEC shall notify the Commission's Consumer Services Department within two business days.

Rule 4901:1-5-19, O.A.C.

- (103) MCI interprets Rule 4901:1-5-19(K)(1), O.A.C., as extending the time period in which a bill is past due before service may be disconnected, specifically resulting in a 28-day period before service can be disconnected. MCI argues that 28 days is too long, as an unscrupulous customer could run up a substantial toll bill over such an extended period. MCI's interpretation of this rule is incorrect. The time period is 14 days between the due date on the bill and the earliest disconnection date. The Commission also notes that with the availability of toll caps and fraud provisions a carrier's risk exposure may be further limited.
- (104) OCC restates the issues raised in its comments that would require a company to attempt to contact the customer before a service disconnection, thus, according to OCC, providing the subscriber one more chance to avoid disconnection. Although the Commission believes customers have a right to be notified prior to disconnection for non-payment, it sees no need to provide a second notification after the formal disconnection notice has already been sent. The Commission believes the disconnect notice required by the rules constitutes sufficient notice of disconnection and balances the rights of telephone companies and consumers. The Commission notes that information on how to avoid disconnection is available to consumers in the customer bill of rights.
- (105) According to OTIA, Rule 4901:1-5-19(B)(2), O.A.C., contains a significant language error when it refers to contracts between the LEC and a separate toll service provider. OTIA states the contracts to which this standard refers are billing and collection contracts which have been deregulated for many years. Accordingly, OTIA concludes that such billing and collection contracts are not subject to Commission approval. OTIA is correct that the Commission has not required Commission approval of billing and collection contracts in the past. However, the Commission is concerned that some of the contracts may have provisions which are inconsistent with the Commission's new disconnect policy. The intent of Rule 4901:1-5-19(B)(2), O.A.C., is that LECs implement the Commission's disconnect policy regardless of the contents of any billing and collection contracts, unless specific Commission approval of any such provision is obtained in advance.

- (106) Edgemont objects to Rule 4901:1-5-19(E), O.A.C., and asserts that a customer must be allowed time to respond to an allegation of fraud with the burden resting on the party making the allegation. Furthermore, Edgemont posits that if companies are allowed to define fraud in their tariffs, the public must have an opportunity to be heard on this matter. The Commission notes Edgemont's concerns and acknowledges the right of the public to be heard when any fraud tariffs are filed with the Commission.
- (107) Pursuant to Rule 4901:1-5-19(I)(1), O.A.C., LECs are permitted to disconnect service to a subscriber or deny service to an applicant for failure to pay for services furnished to a former subscriber who previously subscribed to services and the non-paying former subscriber continues to be a member of the household of the applicant or new subscriber. OCC disagrees with this rule. OCC alleges that no other industry is permitted to withhold service to a customer for a debt owed by another customer. OCC states "[t]he desire to prevent 'name fraud' cannot overwhelm the fact that no other industry can use debts owed by one person to withhold service or products to another person." This statement is incorrect. Former MTSS Rule 4901:1-5-32(A), O.A.C., provided that service could be denied or disconnected for "[d]elinquency in payment for service by a previous occupant at the premises to be served, other than a current member of the same household." The Commission also recognizes the unique nature of utility services in that utility service is a service to the household rather than a benefit to a specific individual. Additionally, in Rule 4901:1-15-29(C), O.A.C., of the Standards for Waterworks Companies and Sewage Disposal System Companies and in Rule 4901:1-18-12, O.A.C., of the Rules, Regulations and Practices Governing the Disconnection of Gas, Natural Gas, or Electric Service to Residential Customers the same provisions have existed for quite some time. The Commission sees no compelling reason to modify these requirements as they apply to the provision of local telephone service.

OCC further states that the Commission erred by not prohibiting the denial or disconnection of service because of bills owed to another provider. The Commission agrees with OCC on this point and emphasizes that it was the Commission's intent to prohibit the denial or disconnection of service as a result of charges owed to another provider. However, the Commission believes amendment of Rule 4901:1-5-19, O.A.C., is not necessary to prohibit such action. OCC acknowledges

that allowing a LEC to contract with an IXC for disconnection of toll service is permissible. The Commission envisions no other scenario in which a provider of telecommunications services could disconnect service for the debt owed to another provider. While the Commission has not expressly prohibited such action in Rule 4901:1-5-19, O.A.C., the Commission made clear its intentions to sever the link between the debt incurred with one carrier and the establishment of service with another carrier in Rule 4901:1-5-14(A)(9), O.A.C.

- (108) GTE requests clarification of the disconnect notice provisions of Rule 4901:1-5-19(I)(3), O.A.C. GTE objects to the part of this rule that states that disconnection is prohibited if the customer pays the same amount paid for the same billing period in the previous year. GTE poses that if a person had only one business line at \$30 dollars per month one year ago but now has ten business lines for \$300 dollars a month, does this mean the customer would only have to pay \$30 dollars? The Commission clarifies that in the situation posed by GTE the customer would have to pay 10 x \$30 or \$300 dollars. If the charge per line had increased to \$40 dollars in the past year, the customer would still only have to pay only \$300 dollars instead of 10 x \$40 or \$400 dollars.
- (109) OTIA contends that all the new requirements of Rule 4901:1-5-19(K)(3), O.A.C., combine to create a disconnect notice of significant length, complexity, and opacity. OTIA believes the Commission should reconsider whether all the requirements of this rule are appropriate and necessary. The Commission believes that the requirements of this rule are appropriate and necessary to adequately inform subscribers of their rights in a changing competitive market, and in light of the Commission's disconnect policy.
- (110) Further OTIA argues that requiring a statement that nonpayment of nonregulated charges cannot result in disconnection of basic local service or regulated toll service, as required in Rule 4901:1-5-19(K)(3)(F), O.A.C., will encourage nonpayment of nonregulated charges and is unprecedented in commercial law. The Commission does not agree with OTIA's argument that the statement relative to nonpayment of charges for nonregulated services is unprecedented and will encourage nonpayment of such charges. The Commission would again refer to the FCC pay-per-call disclaimers as referenced in a footnote of the discussion of Rule 4901:1-5-16, O.A.C., above. The Commission notes that the disconnect notice is the final

opportunity for the customer to understand his/her right to maintain local or toll service if associated charges are paid. Additionally, it has been Commission policy for quite some time to prohibit the disconnection of regulated services for nonpayment of nonregulated service charges.⁸

- (111) OTIA also believes that requiring the Commission's address on the disconnect notice may result in some customer payments being mailed to the Commission instead of the LEC. The Commission's address is required to be listed on the disconnect notice pursuant to Rule 4901:1-5-19(K)(3)(h), O.A.C. The Commission does not believe that requiring the Commission's address on the notice of disconnection will result in payments being mailed to the Commission. The Commission also notes that this requirement existed in former MTSS Rule 4901:1-5-34(C)(5), O.A.C.
- (112) Rule 4901:1-5-19(K)(3)(I), O.A.C., requires that the disconnect notice state, among other things, that payments made to an unauthorized payment agent may result in the untimely or improper crediting of the subscriber's account. OTIA objects and reasons that such a statement is unnecessary and confusing. The Commission disagrees and notes that most payments made in person today are made to agents rather than in LEC business offices. Therefore, such a statement will help avoid customer confusion and assist in avoiding unwarranted disconnections.
- (113) Rule 4901:1-5-19(L)(1)-(3), O.A.C., Reconnection of Local Exchange and Interexchange Service, requires that payments received by an authorized agent of the company shall be treated in the same manner as payment made directly to the company just as in Rule 4901:1-5-07(E), O.A.C. Just as it opposed Rule 4901:1-5-07(E), O.A.C., OTIA argues that it is impossible to comply with Rule 4901:1-5-19(L)(3), O.A.C., since authorized agents are not online with the billing or accounting systems of the LECs. OTIA recommends that "the payment be credited to the subscriber's account immediately where feasible and in any event shall be credited as of the time of payment." AS discussed in regards to OTIA's application of Rule 4901:1-5-07(E), O.A.C., above, the Commission realizes that without online access LECs are unable to credit the customer's account by the end of the day payment is received by the authorized agent. However, as previously stated the intent of this provision is that the payment be

⁸ See former MTSS Rule 4901:1-5-32(D), O.A.C.

credited to the subscriber's account immediately where feasible and, in any event, be credited as of the day payment is received by the authorized agent.

- (114) Ashtabula contends that Rule 4901:1-5-19(L), O.A.C., should be amended to clearly state that LECs which erroneously disconnect a subscriber shall not charge a reconnection fee and shall be required to compensate the affected subscriber for the period the subscriber was without service, pursuant to Rule 4901:1-5-18, O.A.C. The Commission agrees with Ashtabula as to erroneous disconnections of service but believes such concerns do not warrant amendment of this rule. The Commission finds that the standards of Rule 4901:1-5-19, O.A.C., coupled with the standards of Rules 4901:1-5-06 and 4901:1-5-18, O.A.C., provide sufficient protection for the consumer.

Rule 4901:1-5-24, O.A.C.

- (115) As with Rule 4901:1-5-18, O.A.C., OTIA vigorously objects to Rule 4901:1-5-24, O.A.C. OTIA interprets the rule to require "perfect service" and argues that such a requirement is unlawful, unreasonable and an abuse of discretion. OTIA cites Section 4905.231, Revised Code, which grants the Commission authority to "ascertain and prescribe reasonable standards of telephone service" to develop "minimum standards for the furnishing of adequate telephone service." Thus, OTIA reasons that requiring perfect service is not such a minimum standard and, therefore, requests rehearing of Rule 4901:1-5-24, O.A.C.
- (116) As discussed in the Finding and Order issued in this case, as well as in the discussion above regarding Rule 4901:1-5-18, O.A.C., the Commission does not believe the standards in Rule 4901:1-5-24, O.A.C., constitute requirements for perfect service. Rule 4901:1-5-24, O.A.C., allows one to three days, depending on whether the trouble is of an out-of-service or service-affecting nature, for LECs to make repairs; permits installation within five business days, and allows for the rescheduling of appointments and commitments. The initial consequences of non-compliance with the installation and repair provisions of Rule 4901:1-5-24, O.A.C., are the billing adjustments provided for in Rule 4901:1-5-18, O.A.C., which contains numerous exceptions. With respect to out-of-service repair, these exceptions include conditions resulting from negligent or willful acts by the subscriber, malfunctions of

customer-owned telephone equipment, Acts of God, military action, wars, insurrections, riots, strikes or delays extended by the LEC's inability to gain access to the premise because the subscriber missed the repair appointment. With respect to installation, exceptions apply to applications involving special equipment or service, installations in undeveloped areas where no facilities exist and where applicants have not met applicable tariff requirements. With respect to appointments and commitments, exceptions apply when the LEC provides 24-hour notice or when natural disasters hinder the LEC's installation efforts. These exceptions will reduce the number of billing adjustments the LECs are required to make. Most of these exceptions do not appear in the corresponding provisions of Rule 4901:1-5-24, O.A.C., due in part to the Commission's desire for LEC records to reflect the total volume of service problems, including exceptions. Finally, the Commission believes that billing adjustments not only provide relief to those directly affected by a service problem but should also mitigate the need for enforcement efforts to address non-compliance with the requirements of Rule 4901:1-5-24, O.A.C.

- (117) In addition, OTIA maintains the structure of Rule 4901:1-5-24, O.A.C., presents an ambiguity by contemplating credits both for delayed out-of-service clearance and for missing any related repair appointment. OTIA contends this amounts to a double counting, and that only one of these credits should be available. Also, OTIA maintains that if credits are retained, they should not apply to business customers in those exchanges that are subject to competition. The Commission rejects OTIA's recommendation for all the reasons previously stated in the discussion of Rule 4901:1-5-18, O.A.C.
- (118) OCC also requests rehearing of Rule 4901:1-5-24, O.A.C. OCC argues that the large LECs should be required to continue to file exception reports. OCC posits that these reports are necessary to monitor compliance and that reliance on complaints to the Commission's Public Interest Center and on Commission audits is insufficient to monitor compliance.
- (119) Ameritech contends that it is unnecessary in Rule 4901:1-5-24(A), O.A.C., to require the LEC to investigate and take appropriate action to correct any instance of noncompliance. Ameritech argues that LECs will already be required to take significant steps in order to comply with the rule as written. The Commission agrees with Ameritech's comment that the

billing adjustment provisions of Rule 4901:1-5-18, O.A.C., provide an incentive for LECs to investigate and take appropriate action to correct any instance of noncompliance. The Commission, however, disagrees that such an incentive justifies dropping the requirement to investigate and correct. Without such a requirement, some LECs might determine it is less expensive to make billing adjustments for noncompliance than to address the causes of such noncompliance and, therefore, decide to leave problems uncorrected.

- (120) The Commission disagrees with OCC's contention that MTSS compliance reports should be provided to the Commission on a regular basis. To require the LECs to move from exception reporting, with its attendant weaknesses, to positive reporting of compliance, with all the requirements of Rule 4901:1-5-24, O.A.C., would only be moving to greater regulation for an industry which is crossing the threshold to competition. The Commission is confident in its ability to gain access to the records required by Rule 4901:1-5-24, O.A.C., and plans to conduct audits to verify that records accurately reflect compliance with the requirements of this rule. The Commission believes the most effective and efficient method to monitor MTSS compliance is to review customer complaints through our PIC hotline, and LEC customer service audits, which can point to areas of noncompliance. Once such areas are identified, the Commission can analyze the LEC's MTSS records to determine the extent of such noncompliance.
- (121) Pursuant to Rule 4901:1-5-24(B)(1), O.A.C., a service interruption report shall not be downgraded to a service-affecting report. OTIA contends that it is unreasonable to prohibit the reclassification of an out-of-service report to a service-affecting report.
- (122) The Commission believes OTIA may have misinterpreted Rule 4901:1-5-24(B), O.A.C., which prohibits the downgrade of trouble reports from out-of-service to service-affecting status. Although the rule prohibits such downgrade subsequent to receipt of the initial customer report, the rule certainly permits the LEC to initially classify the trouble as service-affecting in cases where the customer mistakenly characterizes the trouble as being out of service. Such initial classification must be based on remote testing conducted at the time of the initial report. However, once an initial classification has been made, based on concurrent testing, subsequent downgrade is prohibited by the rule. The purpose of this rule is to preserve the

proper recording of out-of-service conditions, although some out-of-service conditions may be temporary. For example, merely because a service outage cures itself after weather conditions improve, the fact that a customer was without service is not negated and the LEC's records should reflect such fact.

- (123) OTIA maintains there is an inconsistency between Rule 4901:1-5-24(B)(6), O.A.C., the out-of-service standard, and Rule 4901:1-5-18(B), O.A.C., the out-of-service credit rule, regarding exclusions for Sundays and holidays.
- (124) Rule 4901:1-5-24(B)(6), O.A.C., states "out-of-service trouble reports shall be cleared within twenty-four hours, excluding Sundays and holidays, following receipt of the report." Applicable credits for out-of-service conditions shall be applied to subscriber bills in accordance with Rules 4901:1-5-18(A) and (B), O.A.C. Whereas, Rule 4901:1-5-18(A), O.A.C., requires that after the LEC is aware that a subscribers is out of service and the subscriber continues to be out of service for the next 24 hours, the LEC shall make an adjustment to the subscriber's account depending on the duration of the outage including Saturdays, Sundays and holidays. Rule 4901:1-5-18(B), O.A.C., states the amount of the credit to a customer depends on the duration of the outage.
- (125) The Commission disagrees with OTIA's contention that there is an inconsistency between Rule 4901:1-5-24(B)(6), O.A.C., the out-of-service standard, which excludes Sundays and holidays, and Rule 4901:1-5-18(B), O.A.C., the out-of-service credit, which allows no such exclusion. This difference is intentional. The intent is for customers to receive the credit after the prescribed outage periods without excluding weekends and holidays. Results of the National Regulatory Research Institute (NRRI) survey show that most customers expect to be restored within 24 hours regardless of whether that time involved a weekend or holiday. If this different treatment causes record-keeping problems, the Commission will allow LECs to include weekends and holidays in their compliance calculations for Rule 4901:1-5-24(B)(6), O.A.C., so long as the associated records are noted as including such and are consistent over time.
- (126) OTIA and GTE request rehearing of Rule 4901:1-5-24(B)(7), O.A.C. The rule at issue states that service-affecting trouble shall be cleared within 72 hours of receipt of the trouble

report. OTIA and GTE contend that this rule allows no exceptions for Sundays and holidays and requires perfection. They further argue that the rule would require the same priority as for out-of-service trouble.

- (127) OTIA points out that, if holidays and weekends are not excluded from compliance calculations for service-affecting trouble in Rule 4901:1-5-24(B)(7), O.A.C., such a report received on a Friday would have the same priority as an out-of-service report. The Commission disagrees with OTIA's contention that not excluding Sundays and holidays in Rule 4901:1-5-24(B)(7), O.A.C., could force LECs to assign service-affecting trouble the same priority as out-of-service trouble. The Commission points out that not only are LECs allowed three times as long to clear service-affecting trouble reports, but these reports have no required service adjustment. The Commission believes these factors will ensure that service-affecting reports will be assigned a lower priority than out-of-service reports and provide sufficient reason not to exclude Sundays and holidays in the application of this rule. The Commission disagrees with GTE's contention that Rule 4901:1-5-24(B)(7), O.A.C., requires perfection by not requiring that only a certain percentage of service-affecting reports be cleared within 72 hours. Perfection, in the Commission's view, would require that service-affecting trouble never occur or when it does, that it be cleared within a couple of hours of the report. By allowing three days for such repairs, the rule is far from requiring perfection and, therefore, should retain its requirement for three-day clearance.
- (128) OCC requests rehearing of Rule 4901:1-5-24(B)(8), O.A.C. OCC states that the Commission should require LECs to provide cellular relief for customers who will be out of service for over eight hours if the customer has a medical condition whereby the absence of phone service would be especially dangerous to health.
- (129) OTIA interprets Rule 4901:1-5-24(B)(8), O.A.C., to require 100 percent compliance and, therefore, vigorously objects to the rule and requests rehearing on this issue.
- (130) Ameritech recommends that Rule 4901:1-5-24(B)(8), O.A.C., should apply only when an on-premise repair appointment is required.

- (131) The Commission disagrees with OTIA's objection that Rule 4901:1-5-24(B)(8), O.A.C., demands 100 percent compliance. The implication of this objection is that the rule is unreasonable because it demands perfection. The Commission believes perfection would entail never having to reschedule an appointment or commitment. Since this rule permits the rescheduling of appointments and commitments, the Commission believes it requires less than perfection and, therefore, is reasonable. Support for such a rule comes from customer complaints to the PUCO Hotline and the study conducted by the NRRI in this proceeding. As previously noted, the prior MTSS contained a similar requirement.⁹ Furthermore, the Commission notes that Rule 4901:1-5-18, O.A.C., lists exceptions when a credit would not be applied to a customer's account.

The Commission also disagrees with Ameritech's contention that the language regarding morning or afternoon appointment windows in Rule 4901:1-5-24(B)(8), O.A.C., should apply only to on-premise repair appointments. The four-hour window should also apply to commitments so that customers will know when to expect outside repairs to be completed. Both residential and business customers need to know more specifically when to expect repairs will be completed so they can plan for the resumption of their telecommunications service. The Commission believes the LEC should state the commitment in terms of a morning or afternoon repair on a given date and then notify the customer either if such repair is completed prior to that time period, but especially if the repair can not be completed by the end of the commitment period.

The Commission also disagrees with OCC's contention that Rule 4901:1-5-24(B)(8), O.A.C., should require LECs to provide cellular relief to customers with medical conditions who will be out of service for over eight hours. It is the Commission's understanding that providing such relief would require Bell operating companies (BOCs) such as Ameritech to obtain a waiver from the FCC since BOCs are prohibited from providing such service pursuant to 47 C.F.R. Section 22.903. However, the Commission is aware that the FCC has proposed that such prohibition be modified from structural separation of the BOC's providing cellular and local exchange service to

⁹ See Rule 4901:1-5-20(E), O.A.C.

accounting safeguards for the BOCs that provide local exchange services and cellular services.¹⁰ The Commission does not object to a LEC providing cellular service to customers who would be out of service for over eight hours and where a member of the customer's household has a medical condition whereby the absence of telephone service would be especially dangerous. However, the Commission finds that it is improper to promulgate a rule where compliance with such rule may involve federal regulatory barriers. In light of the FCC restrictions, the Commission believes it is sufficient to require priority restoration for customers with medical conditions as is required by Rule 4901:1-5-24(B)(5), O.A.C.

Rule 4901:1-5-24(C), O.A.C.

- (132) OTIA contends the language of Rule 4901:1-5-24(C)(1), O.A.C., regarding the provision of alternative service is vague and should include examples of appropriate, complying alternative services. GTE argues that alternative service should not be ordered if, for example, the customer ordered 16 lines and only 15 could be installed within 15 days. OTIA and GTE also recommend that the LEC be required to provide alternative service only to the first line to a given customer under Rule 4901:1-5-24(C), O.A.C.
- (133) Contrary to OTIA's contention that Rule 4901:1-5-24(C)(1), O.A.C., should include examples of alternative service, the Commission believes it is sufficient to provide such examples in the entry. Accordingly, if initial service is not installed within 15 days, the rule requires LECs to offer some form of alternative service, such as remote call forwarding, voice mail or cellular service to the extent permitted by FCC regulations.

The Commission disagrees with GTE's contention that Rule 4901:1-5-24(C)(1), O.A.C., should specify that the alternative service requirement apply only to a customer's first line. The Commission believes the current language which specifies "initial service," already implies the restriction suggested by GTE, since the purpose of the alternative service requirement is to provide access to the network where none exists. Using GTE's example, if the customer already has 15 lines, but a 16th line cannot be installed within 15 days, there would be no need for the LEC to provide alternative service, since the customer would already have access to the network through the other 15 lines. The Commission emphasizes that this

¹⁰ See FCC WT Docket No. 96-162.